

Panaji, 4th August, 2016 (Savana 13, 1938)

SERIES II No. 18

# OFFICIAL GAZETTE



# GOVERNMENT OF GOA

PUBLISHED BY AUTHORITY

*Note:- There are two Extraordinary issues to the Official Gazette, Series II No. 17 dated 28-07-2016 as follows:—*

- (1) *Extraordinary dated 28-07-2016 from pages 327 to 328 regarding Notification from Department of General Administration.*
- (2) *Extraordinary (No. 2) dated 02-08-2016 from pages 329 to 330 regarding Notification from Department of Elections.*

## GOVERNMENT OF GOA

Department of Agriculture

Directorate of Agriculture

### Order

No. 3/5/EXT/144/2016-17/D.Agr/284

Approval of the Government is hereby conveyed for constituting a Expert Committee for recommendation to the Government for cutting of more than ten coconut palms for replanting or new plantation.

The Committee comprises of officials as under:

1. Secretary (Agriculture) — Chairperson.
2. Representative of ICAR— — Member.  
Central Costal Agriculture  
Research Institute
3. Director of Agriculture — Member  
Secretary.

The Expert Committee will meet as and when required periodically to recommend the cases to the Government.

By order and in the name of the Governor of Goa.

U. B. Pai Kakode, Director & ex officio Joint Secretary (Agriculture).

Tonca-Caranzalem, 26th July, 2016.

Department of Civil Supplies and  
Consumer Affairs

### Notification

No. DCS/S/SKO-DBTK/2016-17/294

Read: No. DCS/S/SKO-DBTK/2016-17/182 dated 25-05-2016.

Sub.: Extension of period for Re-Registration of Non-LPG Cardholders for supply of subsidized Kerosene & Direct Benefit Transfer in Kerosene (DBTK) Scheme.

Whereas the State Government has decided to implement Direct Benefit Transfer in Kerosene (DBTK) Scheme in the State.

And whereas Notification No. DCS/S/SKO-DBTK/2016-17/182 dated 25-05-2016 was issued inviting applications from the non LPG beneficiaries to re-register themselves and avail subsidized kerosene supply & benefits of DBTK Scheme of the Government of India at the respective Taluka offices of this department from 01-06-2016 to 30-06-2016.

As it is noticed that response of beneficiaries in this regard was not found satisfactory and hence in order to cover left out beneficiaries if any, the period for inviting applications has been further extended till 30th July, 2016.

By order and in the name of the Governor of Goa.

Vikas S. N. Gaunekar, Director & ex officio Joint Secretary (Civil Supplies).

Panaji, 26th July, 2016.

## Department of General Administration

## Order

No. 35/4/2005/GAD-III/2378

Read: Order No. 35/4/2005/GAD dated 27-5-2013.

In partial modification of the Government order read in preamble, the Governor of Goa is pleased to re-designate the following officers as Public Information Officers, Assistant Public Information Officers and First Appellant Authority in respect of Revenue Department I & II, Secretariat, Porvorim, as required in Clause 5 of the Right to Information Act, 2005:-

Designation of the Officer appointed as FAA	Designation of the Officer appointed as PIO	Designation of the Officer appointed as APIO	For which Department/ /Section
Additional/Joint Secretary (Revenue)	Under Secretary (Revenue-I)	Section Officer (Revenue-I)	Revenue Department
-do-	Under Secretary (Revenue-II)	Section Officer (Revenue-II)	-do-

By order and in the name of the Governor of Goa.

Varsha S. Naik, Under Secretary (GA-I).

Porvorim, 27th July, 2016.

## Department of Labour

## Order

No. 28/53/2015-LAB/483

Whereas, the Government of Goa is of the opinion that an industrial dispute exists between the management of M/s. Sun Village (De Souza Group Hotels), Saqwadi, Arpora, Bardez, Goa and its workmen, represented by the Goa Trade and Commercial Workers Union, in respect of the matter specified in the Schedule hereto (hereinafter referred to as the "said dispute");

And whereas, the Government of Goa considers it expedient to refer the said dispute for adjudication.

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947) (hereinafter referred to as the "said Act"), the Government of Goa hereby refers the said dispute for adjudication to the Industrial Tribunal of Goa at Panaji-Goa, constituted under Section 7-A of the said Act.

## SCHEDULE

"(1) Whether the action of the management of M/s. Sun Village (De Souza Group Hotels), Saqwadi, Arpora, Bardez, Goa, in not

conceding the following demands raised by the Goa Trade and Commercial Workers Union vide its letter dated 17-09-2014, is legal and justified?

## CHARTER OF DEMANDS

(1) **Grade/Flat-rise & Basic Salary:**

That each worker be graded correctly as per the nature of work performed by these workmen and be placed in the respective pay scales given hereunder and be paid a sum of Rs.1800/- as Flat Rise in the basic salary existing as on 31-12-2013. The total basic salary as on 31-12-2013 PLUS the Flat Rise of Rs.1800/- per month be placed in the pay-scales given below and fitted at the appropriate stage which shall be the basic pay of each worker w.e.f. 01-01-2014.

Grade	Designation	Pay Scales
1	2	3
III	Utility Workers/ /Helpers/Gardener/ /Labour	1975-130-2625-145- -3350-170-4200-195- -5175.
II	Sr. Operator/Sr. Utility Workmen/Resort Atten- dant/Room Attendant/ /Pool Attendant/Painter/ /Carpenter/Electrician/ /Plumber/Bell Boy/Driver	2225-145-2950-160- -3750-190-4700-220- -5800.

1	2	3
I	Captain	2475-160-3275-175- -4150-210-5200-245- -6425.

**(2) Seniority Weightage:**

That every workman be paid Seniority Weightage on following basis:-

That is for every completed year of service as on 31-12-2013 each workman be paid a sum of Rs. 150/- towards Seniority Weightage and the accruing amount based on the number of years multiplied by Rs. 150/- per year be placed in respective pay-scales of the workmen.

For Ex.: 1) Those with 1 year of service as on 31-12-2013 be paid Rs. 150/- as Seniority Weightage.

2) Those workmen with 5 years of service as on 31-12-2013 be paid Rs. 750/- as a Seniority Weightage and so on.....

**(3) Fixed Dearness Allowance (FDA):**

That w.e.f. 01-01-2014 each workman be paid Rs. 1500/- per month towards Fixed Dearness Allowance (FDA) over and above the existing FDA.

**(4) House Rent Allowance (HRA):**

That w.e.f. 01-01-2014 each workman be paid Rs. 1,000/- per month towards House Rent Allowance (HRA) over and above the existing HRA.

**(5) Variable Dearness Allowance (VDA):**

That w.e.f. 01-01-2014 each workman be paid a Variable Dearness Allowance@ Rs. 2/50 per point over and above base 4500 points AAICPI (1960=100).

The Variable Dearness Allowance (VDA) should be revised once every quarter (once in three months).

**(6) Conveyance Allowance:**

That w. e. f. 01-01-2014 each workman be paid an additional amount of Rs. 1,000/- per month over and above the existing Conveyance Allowance as on 31-12-2014.

**(7) Education Allowance:**

That w.e.f. 01-01-2014 each workman be paid an additional amount of Rs. 800/- per month.

**(8) City Compensation Allowance:**

That w.e.f. 01-01-2014 each workman be paid a sum of Rs. 500/- per month towards City Compensation Allowance.

**(9) Shift Allowance:**

That w.e.f. 01-01-2014 each workman be paid a Shift Allowance on the following basis:

1st Shift Allowance	Rs. 25/- per shift
2nd Shift Allowance	Rs. 35/- per shift; and
Night Allowance	Rs. 45/- per shift

**(10) Out-door Food Allowance:**

Whenever a workman is sent on out-duty he/ she be paid an Out-Door Food Allowance towards breakfast, lunch, dinner, tea and snacks on the following pattern:

Breakfast	Rs. 50/- per day
Lunch	Rs. 75/- per day
Dinner	Rs. 75/- per day
Tea & Snacks	Rs. 25/- per day

**(11) Leave Travel Allowance:**

That w.e.f. 01-01-2014 each workman be paid a Leave Travel Allowance (LTA) on the following basis:

Grade-III	Rs. 6000/-
Grade-II	Rs. 7000/-
Grade-I	Rs. 8000/-

**(12) Overtime:**

- That each workman be paid Overtime at double the rate of wages with retrospective effect. Whenever a worker is required to work on Sundays/Holidays and Weekly-Off days, he should be paid double the rate of wages with a paid compensatory off which should be allowed to be availed by the worker within 3 days of such work.
- It is demanded that when a workman of a first shift is asked to wait for the overtime for the 2nd shift, shall be provided overtime as mentioned above and company shall provide a vehicle to drop the employee at home or pay actual Transport Allowances.
- That w.e.f. 01-01-2014 whenever a workman is required to work on overtime for continuous 12 hours of duty he/she shall be paid Food Allowance of Rs. 100/- per extra shift worked.

**(13) Leave Facilities:**

That each workman be eligible to the following Leave Facilities w.e.f. 01-01-2014.

- Privilege Leave ... 30 days per annum with a facility to accumulate upto 100 days and encash leave above 50 days.

- b) Casual Leave ... 10 days per annum with a facility to accumulate upto 30 days or with a facility to encash the balance leave.
- c) Sick Leave ... 12 days per annum with a facility to accumulate upto 30 days.
- d) Holidays ... 14 days per annum to be finalised in the month of January, every year between the Union and the Management.

**(14) Rest Room & Lockers:**

Well furnished fully equipped Rest-Rooms & Lockers be provided at the factory with immediate effect since the workmen are working in 3 shift operation and workmen employed in factory are more than 100.

**(15) Bonus-cum-Ex-gratia:**

That 20% Bonus-cum-Ex-gratia be paid to every workman without any ceiling.

**(16) Uniforms/Washing Allowance:**

That each workman be provided with the following facilities:

**Uniforms:**

- (a) That w.e.f. 01-01-2014 each workman be issued 2-sets of Uniforms every year in the month of January.

**Washing Allowance:**

- (b) That w.e.f. 01-01-2014 each workman be paid a sum of Rs. 250/- per month towards Washing Allowance.

**Towels:**

- (c) That each workman be issued two towels for each year and two soaps of 100 gms (Lifebuoy) each in a month.

**(17) Insurance:**

24 hours Group Personal Accident Insurance Scheme:

Each workman be covered for all the 24 hours for accidents OR death for a sum of Rs. 3 lakhs under the Group Personal Accident/Insurance Scheme.

**(18) Medical Check-up:**

That every workman should be provided Free Medical check-up once a year.

**(19) Death Relief Scheme:**

- (1) Union demands that if an employee dies during the normal course of employment, such employee shall be paid a sum of Rs. 1,50,000/- from the management to his family (legal heirs). This payment should not have any bearing on the workmen's right to secure a claim under Workmen's Compensation Act.
- (2) Union demands that the company shall pay a non recoverable sum of Rs. 25,000/- towards funeral expenses.

**(20) Festival Advance:**

Each workman be paid Rs. 10,000/- as Festival Advance at least 10 days prior to the festival every year to be deducted in 10 equal installments.

Ganesh Chaturthi festival.

Christmas festival.

Id.

**(21) X'mas Gift/Diwali Gift:**

That each workman be presented with an X'mas or Diwali Gift every year costing not less than Rs. 2500/-.

**(22) Sanction of Leave:**

Whenever a workman applies for leave the intimation regarding sanctioning of leave should be made known to the concerned workmen within 6 hours of such application.

**(23) Home Drop for working in 2nd and 3rd Shift (Night Shift):**

That all workmen should be provided with home drops after 7.00 p.m. and those working in 2nd shift and 3rd shift (Night shift) operations.

**(24) Interim Relief:**

Pending the finalization of all the above demands spelt-out herein, in this Charter of Demands, the Union/workmen demands that each workman who is on the pay roll of the Company be granted an amount of Rs. 6,000/- as an INTERIM RELIEF as the present salary and other emoluments paid to the workmen are meagre and pathetic. This Interim Relief be adjusted from the final relief to be granted to the workmen.

**(25) Period of Settlement:**

We submit that the present Charter of Demands are specifically for the period of 3 years effective from 01-01-2014 to 31-12-2016.

(2) If the answer to issue No. (1) above is in the negative, then, what relief the workmen are entitled to?"

By order and in the name of the Governor of Goa.

*Shashank V. Thakur*, Under Secretary (Labour).  
Porvorim, 8th July, 2016.

#### Order

No. 28/16/2016-LAB/546

Whereas the Government of Goa is of the opinion that an industrial dispute exists between the management of M/s. Pfizer Limited, Verna Industrial Estate, Verna, Salcete, Goa and their workman, Shri Navin Gaude, Management Associate, in respect of the matter specified in the Schedule hereto (hereinafter referred to as the "said dispute");

And whereas the Government of Goa considers it expedient to refer the said dispute for adjudication.

Now, therefore, in exercise of the powers conferred by clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947) (hereinafter referred to as the "said Act"), the Government of Goa hereby refers the said dispute for adjudication to the Labour Court-II of Goa at Panaji-Goa, constituted under Section 7 (1) of the said Act.

#### SCHEDULE

"(1) Whether the action of the management of M/s. Pfizer Limited, Verna Industrial Estate, Verna, Salcete, Goa, in dismissing its workman, namely, Shri Navin Gaude, Management Associate, with effect from 16-06-2015, is legal and justified?

(2) If not, what relief the workman is entitled to?"

By order and in the name of the Governor of Goa.

*Shashank V. Thakur*, Under Secretary (Labour).  
Porvorim, 22nd July, 2016.

#### Order

No. 28/20/2016-LAB/547

Whereas the Government of Goa is of the opinion that an industrial dispute exists between the management of M/s. FDC Limited, Verna Industrial Estate, Verna and their workman Shri Sanjeeb

Kumar Rout, Facility Maintenance Supervisor in respect of the matter specified in the Schedule hereto (hereinafter referred to as the "said dispute");

And whereas the Government of Goa considers it expedient to refer the said dispute for adjudication.

Now, therefore, in exercise of the powers conferred by clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947) (hereinafter referred to as the "said Act"), the Government of Goa hereby refers the said dispute for adjudication to the Labour Court-II of Goa at Panaji-Goa, constituted under Section 7 (1) of the said Act.

#### SCHEDULE

"(1) Whether Shri Sanjeeb Kumar Rout, Facility Maintenance Supervisor, could be considered as workman as defined under Section 2(s) of the Industrial Disputes Act, 1947 (Central Act 14 of 1947)?

(2) If the answer to issue No. (1) above is in the affirmative then, whether the action of the management of M/s. FDC Limited, Verna Industrial Estate, Verna, Salcete-Goa, in terminating the services of Shri Sanjeeb Kumar Rout, with effect from 22-08-2015 is legal and justified?

(3) If the answer to issue No. (2) above is in the negative, then, what relief the workman is entitled to?"

By order and in the name of the Governor of Goa.

*Shashank V. Thakur*, Under Secretary (Labour).  
Porvorim, 22nd July, 2016.

#### Order

No. 28/22/2016-LAB/549

Whereas the Government of Goa is of the opinion that an industrial dispute exists between the management of M/s. Swanson Plastics (India) Private Limited, Honda, Satari, Goa and their workman Shri Krishna Malik, QC inspector represented by the Gomantak Mazdoor Sangh in respect of the matter specified in the Schedule hereto (hereinafter referred to as the "said dispute");

And whereas the Government of Goa considers it expedient to refer the said dispute for adjudication.



Now, therefore, in exercise of the powers conferred by clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947) (hereinafter referred to as the "said Act"), the Government of Goa hereby refers the said dispute for adjudication to the Labour Court-II, of Goa at Panaji-Goa, constituted under Section 7 (1) of the said Act.

## SCHEDULE

"(1) Whether the action of the management of M/s. Swanson Plastics (India) Private Limited, Honda, Satari-Goa, in dismissing Shri Krishna Malik, QC Inspector, with effect from 09-07-2015, is legal and justified?

(2) If not, what relief the workman is entitled to?"

By order and in the name of the Governor of Goa.

*Shashank V. Thakur*, Under Secretary (Labour).  
Porvorim, 22nd July, 2016.

## Order

No. 28/17/2016-LAB/579

Whereas the Government of Goa is of the opinion that an industrial dispute exists between the management of M/s. Pfizer Limited, Verna Industrial Estate, Verna, Salcete Goa and their workman, Shri Sagar Dhume, Management Associate, in respect of the matter specified in the Schedule hereto (hereinafter referred to as the "said dispute");

And whereas the Government of Goa considers it expedient to refer the said dispute for adjudication.

Now, therefore, in exercise of the powers conferred by clause (c) of sub-section (1) of Section 10 of Industrial Disputes Act, 1947 (Central Act 14 of 1947) (hereinafter referred to as the "said Act"), the Government of Goa hereby refers the said dispute for adjudication to the Labour Court-II of Goa at Panaji-Goa, constituted under Section 7(1) of the said Act.

## SCHEDULE

"(1) Whether the action of the management of M/s. Pfizer Limited, Verna Industrial Estate, Verna, Salcete-Goa, in dismissing its workman, namely, Shri Sagar Dhume, Management Associate, with effect from 16-06-2015, is legal and justified?

(2) If not, what relief the workman is entitled to?"

By order and in the name of the Governor of Goa.

*Shashank V. Thakur*, Under Secretary (Labour).  
Porvorim, 27th July, 2016.

## Notification

No. 28/24/2013-LAB/513

The following award passed by the Presiding Officer of the Industrial Tribunal-cum-Labour Court, at Panaji-Goa on 05-04-2016 under reference No. IT/9/13 in respect of Dr. Leena M. John, Workman is hereby published as required by Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

*Shashank V. Thakur*, Under Secretary (Labour).  
Porvorim, 5th July, 2016.

IN THE INDUSTRIAL TRIBUNAL AND  
LABOUR COURT  
GOVERNMENT OF GOA  
AT PANAJI

(Before Mr. Vincent D'Silva, Hon'ble Presiding Officer)

Ref. No. IT/9/13

Dr. Leena M. John,  
Emge Green Complex,  
Appt. No. 401, IV Floor, A-Block,  
Near Taleigao Church,  
P. O. Caranzalem, ... Workman/Party I.  
Goa (403002)

V/s

The Head of Operations,  
Manipal Hospital (Goa),  
Dona Paula, Goa (403 004) ... Employer/Party II.  
Workmen/Party I represented by Adv. Sheela Caeiro.  
Employer/Party II represented by Adv. P. C. Chawdikar.

## AWARD

(Delivered on this the 5th day of the month of April of the year 2016)

In exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947), the Government of Goa by Order dated 15-05-2013

bearing No. 28/24/2013-Lab/362 referred the following dispute for adjudication by this Tribunal.

- “(1) Whether Dr. Leena M. John, Resident Medical Officer, can be construed as a “Workman” as per clause (s) of Section 2 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947)?
- (2) If the answer to the issue No. (1) above is in the affirmative, then, whether the action of the management of Manipal Hospital (Goa), Dona Paula, in terminating the services of Dr. Leena M. John, with effect from 23-12-2010, is legal and justified?
- (3) If the answer to issue No.2 above is in the negative, then, what relief the workperson is entitled to?”

2. Notices were issued to both the parties and Party I appeared and thereafter filed the statement of claim vide Exb. 6.

3. It is contention of Party I that Party I joined Manipal Hospital, Party II at Dona Paula as Resident Medical Officer on 12-08-2010 vide appointment agreement dated 13-08-2010 and that her duty hours were as per time table i.e. during the day, duty hours were six hours and during the night, the duty hours were 12 hours. The duties performed by Party I were taking histories of patients, clinical examination of patients, diagnose and treat patients appropriately according to clinical diagnosis of patients, go on morning rounds for all patients in wards with consultants, attend to all medical and surgical emergencies while on duty depending on where Party I is posted, attend to all patients in emergency department, refer all patients to the consultants concerned, follow instructions of the consultants, write discharge summaries, update diagnosis chart records of in patients and out patients seen by her, write discharge summaries after examination of patients, etc.

4. It is further the case of Party I that on 20-10-2010 she made a complaint regarding harassment by a consultant doctor in the hospital of Party II and that on 27-12-2010 Party I made another complaint regarding harassment and ill treatment. The said complaints were not placed before any Sexual Harassment Committee as Party II had no Sexual Harassment Committee and hence no justice was done to Party I. Party I also made a sexual harassment complaint before the Chairperson of Goa State Commission for Women and also Bailancho Saad, a Women's Organization and that after her sexual harassment complaints, the Party II

started harassing her and asked her to resign from services which she did not do. On 23rd December, 2012, when she reported to work, she was informed not to report for duties and should leave the hospital immediately and that she should not come for work from that day onwards and that her services have been terminated with immediate effect.

5. Party I further contended that her termination from services w.e.f. 23rd December, 2010 is illegal and unjustified besides being malafide and in violation of principles of natural justice as no memo or charge sheet was issued to Party I before terminating her services, and that the principles of natural justice were not complied with before terminating the services of Party I, and that the termination of services of Party I is malafide as the same has been done because Party I filed a sexual harassment case against a doctor colleague in the hospital, and that no action was taken on the sexual harassment complaint filed by Party I before any sexual harassment committee to be appointed as per directions of Supreme Court of India, and that no notice of one month was given to Party I before terminating the services of Party I.

6. The Party II appeared and filed a written statement at Exb. 7 and by way of preliminary objections contended that the reference filed by Party I, is bad in law and hence not maintainable and that the present dispute of Party I is not an ‘Industrial Dispute’ as defined under the Industrial Disputes Act, 1947. Party I was appointed as a ‘Resident Medical Officer’ with the Party II pursuant to the agreement dated 13-08-2010 and she was supposed to continue for a term from 12-08-2010 till 11-08-2011 and that as a doctor she was rendering professional service to the Party II as such she cannot be held to be workman as claimed by her and also there was no material whatsoever produced by Party I to show any direct master-servant relationship, on the contrary as per the clause 8 of the said agreement dated 13-08-2010 and the terms and conditions of employment signed by Party I, it was agreed between the parties that the relation under the said agreement between the parties is strictly on a principal to principal basis.

7. Party I filed a rejoinder on 06-01-2014 at Exbt. 8 denying all the contentions raised in the written statement of Party II. Issues were framed at Exb. 11. Party I filed an application at Exb. 17 requesting to place the matter for mediation before Lok Adalat, however the same ended in failure.

8. It is a matter of record that Party I and Party II jointly filed the consent terms at Exb. 19 which are as under:

- (1) The Party No. I stated that she does not wish to pursue the present matter and hereby withdraws all her claims against Party II.
- (2) The Party II state that it will not claim any compensation or damages whatsoever, on account of the present reference and dispute between the parties.

9. Discernibly, both the parties have signed the consent terms along with their Advocates on record, wherein Party I claimed that she does not wish to pursue the matter and withdraw all her claims against the Party II. The Party II on the other hand stated that it will not claim any compensation or damages whatsoever, on account of the present reference and the dispute between the parties and therefore Party I be permitted to withdraw the dispute against Party II.

10. I have gone through the records of the case and the consent terms filed by both the parties. I am convinced that the above consent terms are in the interest of both the parties who have signed the terms along with their Advocates and hence the same are accepted. In view of above, I pass the following:

#### ORDER

1. The reference at the instance of Party I workman, Dr. Leena M. John stands disposed of in view of the consent terms filed by Party I and Party II
2. No order as to costs.
3. Inform the Government accordingly.

Sd/-

(Vincent D'Silva)  
Presiding Officer  
Industrial Tribunal &  
Labour Court

#### Notification

No. 28/23/2016-LAB/554

The following award passed by the Industrial Tribunal, at Panaji-Goa on 06-04-2016 under reference No. IT/93/98 in respect of the Workmen represented by Hotel Goan Heritage Staff Union, Gauravaddo, Calangute, Bardez-Goa, is hereby

published as required by Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

*Shashank V. Thakur*, Under Secretary (Labour).  
Porvorim, 22nd July, 2016.

IN THE INDUSTRIAL TRIBUNAL AND  
LABOUR COURT  
GOVERNMENT OF GOA  
AT PANAJI

(Before Mr. Vincent D'Silva, Hon'ble Presiding Officer)

Ref. No. IT/93/98

Workmen rep. by  
Hotel Goan Heritage  
Staff Union,  
Gauravaddo, Calangute,  
Bardez-Goa ... Workmen/Party I.

v/s

M/s. Hotel Goan Heritage,  
Calangute, Bardez-Goa ... Employer/Party II.

Workmen/Party I represented by Adv. Shri V. Menezes.

Employer/Party II represented by Adv. Shri P. J. Kamat.

#### AWARD (PART-II)

(Delivered on this the 6th day of the month of April of the year 2016)

In exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947), the Government of Goa by Order dated 29th September, 1998 bearing No. IRM/CON-MAP(25)/98/10991 referred the following dispute for adjudication by this Tribunal.

"Whether the action of the management of M/s. Hotel Goan Heritage, Calangute, Bardez-Goa, in terminating the services of the following workmen with effect from 14-05-1998 is legal and justified?

- (1) Shri Alex Lopes, Trainee Captain.
- (2) Shri Valerian Britto, Pantryman.
- (3) Shri Sanjeev Naik, Accounts Assistant.
- (4) Shri Ireneu Gonsalves, Steward.
- (5) Smt. Rita Fernandes, Floor Supervisor.
- (6) Shri Chandu Chavan, Gardener.

If not, to what relief the above workmen are entitled?"



2. On receipt of the reference a case was registered under No. IT/93/98 and registered A/D notices were issued to the parties. In pursuance to the said notice, the parties put in their appearance. The workmen/Party I (for short, "Workmen") filed their statement of claim at Exhibit. 5.

3. Briefly stated, the case of Party I is as follows:

The Employer/Party II (for short, 'employer') is a two starred hotel catering to the foreign guests where the workmen were employed. The workers of the employer formed an Union known as "*Hotel Goan Heritage Staff Union*" of which the workmen were the office bearers. That after formation of the Union, the employer started harassing the office bearers namely the workmen and other workers. That the employer issued a charge sheet to the workmen, namely Shri Alex Lopes, Shri Valeriano Britto, Shri Ireneu Gonsalves, Shri Sanjeev Naik, Smt. Rita Fernandes and Shri Chandu Chavan alleging certain acts of misconduct against them. That though the charge sheet was issued to the said workmen, no enquiry was held against them and their services were terminated w.e.f. 14-05-98. The termination of their services is malafide and is by way of unfair labour practice and that the employer ought to have sought prior permission as the workmen being office bearers were the protected workmen and therefore the termination of their services is illegal and unjustified and hence they are entitled to be reinstated in service with full back wages and other consequential benefits.

4. The Employer filed a written statement at Exb. 6. The employer admitted that the workmen were in their employment. The employer claimed that the workmen had committed various acts of misconduct for which their services were terminated however denied that the workmen were harassed because they formed an Union or because they were the office bearers of the Union. The employer denied that the services of the workmen were terminated by way of unfair labour practices and victimization and that any enquiry was required to be held prior to terminating their services. The employer denied that termination of services of the workmen is illegal and unjustified.

5. The workmen thereafter filed a rejoinder at Exhibit 7.

6. Based on the pleadings of the parties, issues were framed at Exhibit 8.

7. It is a matter of record that Party I (5) Smt. Rita Fernandes filed an application for Consent Award and that my predecessor passed an Award (Part-I) dated 11-12-2002 in terms of settlement dated 24-10-2002.

8. During the pendency of the proceedings, the advocates representing 4 workmen namely, Valeriano Britto, Sanjeev Naik, Ireneu Gonsalves and Chandu Chavan and the Party II filed an application at Exhibit 90 praying that the Consent Award in terms of settlement be made. They also filed a Memorandum of Settlement under Section 2(p) r/w Section 18(1) of the Industrial Disputes Act, 1947 at Exhibit 91.

9. The terms of settlement are reproduced herein:-

1. a) It is agreed between the parties that the workman Shri Valerian Britto, shall be paid an amount of Rs. 8,00,000/- (Rupees eight lakhs only) each in full and final settlement of all his claims.
- b) It is agreed between the parties that the workman Shri Sanjiv Naik, shall be paid an amount of Rs. 8,00,000/- (Rupees eight lakhs only) each in full and final settlement of all his claims.
- c) It is agreed between the parties that the workman Shri Ireneu Gonsalves, shall be paid an amount of Rs. 8,00,000/- (Rupees eight lakhs only) each in full and final settlement of all his claims.
- d) It is agreed between the parties that the workman Shri Chandu Chavan, shall be paid an of amount of Rs. 8,00,000/- (Rupees eight lakhs only) each in full and final settlement of all his claims.
2. It is agreed between the parties that the amount agreed shall be paid in installments to the workmen on making an Award by the Industrial Tribunal, Panaji, in the following manner:
  - a) An amount of Rs. 4,00,000/- agreed shall be paid to each workmen on or before 31-03-2016.
  - b) An amount of Rs. 2,00,000/- agreed shall be paid to each workmen on or before 30-06-2016.
  - c) Balance amount of Rs. 2,00,000/- shall be paid on or before 30-09-2016.
3. It is agreed between the parties that in view of the clause (1a) to (1d) above, the workmen do not press for reinstatement in service.
4. It is agreed and declared by the workmen Shri Valerian Britto, Shri Sanjeev Naik, Shri Ireneu Gonsalves and Shri Chandu Chavan, that the amount payable by the Company to the workmen in the manner herein above

provided for are in full and final settlement and satisfaction of all their claims against the Company including claims for compensation for loss of office or whatsoever.

5. It is agreed between the parties that this settlement shall be filed before the Industrial Tribunal, Panaji in Reference No. IT-93/98 praying for Consent Award in terms of the said settlement.

10. I have gone through the records of the case and the terms of settlement filed as above. I am convinced that the above consent terms are in the interest of Party I workmen, namely Valeriano Britto, Sanjeev Naik, Ireneu Gonsalves and Chandu Chavan and hence the same are accepted. In view of above, I pass the following:

#### ORDER

The reference at the instance of Party I workmen, Shri Valeriano Britto, Shri Sanjeev Naik, Shri Ireneu Gonsalves and Shri Chandu Chavan stands disposed of in view of above settlement terms filed by the said workmen and Party II.

Sd/-

(Vincent D'Silva)  
Presiding Officer  
Industrial Tribunal &  
Labour Court

#### Notification

No. 28/11/2009-LAB/482

The following award passed by the Labour Court-II, at Panaji-Goa on 21-04-2016 under reference No. LC-II/IT/12/2009 in respect of Shri Naresh Parsekar, represented by the President, Vicco Laboratories Workers' Union, Shetye Sankul, 3rd Floor, Tisk, Ponda-Goa, is hereby published as required by Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

*Shashank V. Thakur*, Under Secretary (Labour).  
Porvorim, 8th July, 2016.

IN THE LABOUR COURT-II  
GOVERNMENT OF GOA  
AT PANAJI

(Before **Shri Suresh N. Narulkar**, Hon'ble  
Presiding Officer)

Case No. Ref. LC-II/IT/12/09

Shri Naresh Parsekar,  
Rep. by the President,  
Vicco Laboratories Workers' Union  
Shetye Sankul, 3rd Floor,  
Tisk, Ponda-Goa ... Workman/Party I.

V/s

The President,  
M/s. Vicco Laboratories Ltd.,  
24/1D-2, Molaga-de-Orora,  
Corlim, Tiswadi-Goa ... Employer/Party II.

Workman/Party I represented by Adv. Shri N. Kamat.  
Employer/Party II represented by Adv. Shri G. Sardessai.

Panaji, Dated: 21-04-2016.

#### AWARD

1. In exercise of the powers conferred by Clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947), the Government of Goa, by Order dated 22-09-2009, bearing No. 28/11/2009-LAB-I/968 referred the following dispute for adjudication to the Industrial Tribunal of Goa. The Hon'ble Presiding Officer, Industrial Tribunal cum Labour Court in turn assigned the present dispute to this Labour Court-II, vide her order dated nil.

"(1) Whether the action of the management of M/s. Vicco Laboratories Limited, Corlim, in terminating the services of its workman, Shri Naresh Parsekar, with effect from 11-09-2008, is legal and justified?

(2) If not, what relief, the Workman is entitled to?"

2. On receipt of the reference, a case was registered under No. IT/12/09 and registered A/D notice was issued to the Parties. In pursuance to the said notice, the Parties put in their appearance. The Workman/Party-I (for short Workman'), filed his Statement of Claim on 11-12-2009 at Exb-4. The facts of the case in brief, as pleaded by the Workman are that he was employed with the Employer/Party II (for short, 'Employer') for last more than 12 years. He stated that there exists a union of the workers of the Employer by name Vicco Laboratories Workers Union (for short, "said union"). He stated that he was one of the member of the said union. He stated that he was initially appointed as temporary worker on 01-09-1998 and was confirmed in service w.e.f. 01-06-2000 in a semi-skilled grade I, vide letter dated 31-05-2000. He stated that since his appointment as a temporary worker, he was continuously working for the Employer with unblemished record.

3. He stated that on 11-09-2008, the Managing Director and other officers of the Employer called him alongwith 5 other workers namely Shri Nilkanth Sarpekar, Shri Ramnath Gaude, Shri Rohidas Gaude, Shri Namdev Sawant and Shri Surendra Mulgaonkar, one by one. He stated that the Employer, with malafide intension, so as to pressurize and threatened him to sign the alleged resignation, falsely alleged that he is involved in robbery of employer's product. He stated that however, he did not fall prey to the dirty tactics of the management of terminating his twelve years of sincere service. He stated that he, being alone in the chamber, was forced to sign the letter of resignation. He stated that the Employer was successful in forcefully securing the signatures of other five workers on the alleged letter of resignation. He stated that however, the management was not successful in obtaining his signature. He stated that he was told that if, they refused to sign the alleged letter of resignation, their services shall be terminated. He stated that they were also told that the Employer shall file criminal complaint against them and destroy their future by publishing their photos in the local daily newspaper and defame them. He stated that though they were called singularly one by one, the threats were common against them all. He stated that as he refused to sign the alleged letter of resignation, he was dismissed from service without any enquiry w.e.f. 11-09-2008 on false and fabricated grounds. He submitted that he raised an industrial dispute pertaining to his illegal termination of service before the Asstt. Labour Commissioner, Panaji-Goa, which ended in failure due to the adamant attitude of the Employer.

4. The Workman challenged his dismissal from service w.e.f. 11-09-2008 by contending that he was denied of his basic right to be heard by the management, which is against the basic principle of natural justice, nor was he allowed to seek advice from the union. He submitted that no memo or show cause notice was issued to him on the false allegation nor he was issued a charge-sheet. He submitted that no domestic enquiry was also conducted against him. He submitted that the termination of his services by way of dismissal is therefore, illegal, unjustified and bad-in-law. He submitted that the Employer is in habit of harassing the workers by one way or the other and that during ongoing discussions of the previous settlement, the services of the committee members were terminated and thereafter they were reinstated with full back wages and continuity in service. He submitted that the force applied and

threats given by the Managing Director is against the common principle of service and is an act of unfair labour practice. He stated that as the charter of demand was under negotiation, the Employer terminated his services to pressurize the union to sign the settlement as dictated by the Employer. He submitted that his termination from service without any enquiry is biased and vindictive to harass him and pressurized them to divide from the union activities.

5. He stated that he is the only earning hand in his family, having dependent on him his old aged parents, his wife and five year child. He stated that due to the action of the management in terminating his services on the false allegation have caused hardship to his family. The Workman therefore, prayed for a direction to reinstate him back in service with full back wages and continuity in service and consequential benefits.

6. The Employer resisted the claim of the Workman by filing its Written Statement on 10-03-2010 at Exb. 7. The Employer, as and by way of preliminary objections, submitted that the present reference filed by the Workman is bad-in-law and hence not maintainable and that the dispute raised by the Workman is not an 'industrial dispute' as defined under the I. D. Act, 1947. The Employer further submitted that there is non-application of mind by the Appropriate Government, while referring the present dispute.

7. The Employer stated that the Workman was employed with them since 01-12-1998. The Employer stated that the Workman alongwith five other workmen namely Shri Nilkanth Saperkar, Shri Ramnath Gaude, Shri Rohidas Gaude, Shri Namdev Sawant and Shri Surendra Mulgaonkar, who were supposed to be dismissed for commission of theft, were called by its partner Mr. Ajay Pendharkar and Mr. Rataboli, its Legal Advisor in the office of the Partner Shri Ajay Pendharkar. The Employer stated that the said workmen were informed by Mr. Ajay Pendharkar and Mr. Rataboli that for the reasons spelt out in their letters of dismissal, the management proposed to dismiss them from service. The Employer stated that the letters of dismissal were handed over to the concerned workmen by Mr. Ajay Pendharkar. The Employer stated that the workmen were also informed that apart from dismissing them from service, the management also proposes to file criminal complaint against them before the Police station at Old Goa. The Employer stated that all the workmen except the workman under reference tendered apology, and offered to submit their

resignation from service and pleaded that neither disciplinary action be initiated against them nor a police complaint be filed against them. The Employer stated that in view of offer of resignation, the management agreed with the concerned workman that neither to file a police complaint against them nor to initiate any disciplinary action against them.

8. The Employer stated that as the Workman did not submit his resignation, he was dismissed from service by letter dated 11-09-2008. The Employer stated that it has refrained from filing any police complaint against the workman as initiation of such complaint would have resulted into involvement of the resigned employees and the management would have been accused of withdrawing from its commitment/promise, not to initiate criminal complaint against employees who had resigned. The Employer submitted that no case has been made out by the Workman for granting any relief as also for reinstatement with full back wages and continuity in service with all benefits. The Employer stated that each one of the workman wrote the resignation letter in their own handwriting voluntarily and tendered the same to the management. The Employer denied the overall case of the workman as pleaded by him and prayed for rejection of the present reference.

9. Thereafter, the Workman filed his re-joinder on 15-04-2010 at Exb. 8. The Workman, by way of his re-joinder, confirms and reiterates all his submissions, averments and statements made in his Claim Statement to be correct and proved and denied all the statements, averments and submissions made by the Employer in its Written Statement, which are contrary to his Statement and averments made in his Claim Statement.

10. Based on the pleadings filed by the respective Parties, this court framed following issues on 05-05-2010 at Exhibit-9.

1. *Whether the Workman/Party-I proves that he was working with the Employer Company for last more than 12 years till the date of his alleged illegal termination of services w.e.f. 11-09-2008?*
2. *Whether the Workman/Party I proves that the termination of his services by the Employer Company w.e.f. 11-09-2008 is illegal and unjustified?*
3. *Whether the Workman/Party I proves that his dismissal from services w.e.f. 11-09-2008 by the Employer Company amounts to an act of unfair labour practice?*

4. *Whether the Employer/Party II proves that the present order of reference issued by the Government of Goa is bad-in-law, in view of the preliminary objection raised in para a, b and c of their written statement?*

5. *Whether the Employer/Party II proves that they have dismissed the Workman/Party I from their services on account of the theft of their products committed by him along with other workmen?*

6. *Whether the Workman/Party I proves that he is entitled for any relief?*

7. *What Order? What Award?*

11. My findings to the aforesaid issues are as under:

- |                        |                       |
|------------------------|-----------------------|
| (a) Issue No. 1        | : In the Negative.    |
| (b) Issue No. 2        | : In the Affirmative. |
| (c) Issue No. 3        | : In the Affirmative. |
| (d) Issue No. 4        | : In the Negative.    |
| (e) Issue No. 5        | : In the Negative.    |
| (f) Issue Nos. 6 and 7 | : As per final order. |

I have heard the oral arguments of Ld. Adv. Shri N. Kamat, appearing for the Workman as well as Ld. Adv. Shri G. K. Sardesai appearing for the Employer.

12. Ld. Adv. Shri N. Kamat, representing the Workman, during the course of his oral arguments, submitted that the Workman was a permanent worker of the Employer. He submitted that the Workman has worked continuously for last more than 12 years before his illegal termination of services on the false ground. He submitted that the Workman was dismissed from service without issuing him any show cause notice or charge-sheet or even without conducting any disciplinary enquiry. He therefore submitted that the dismissal of the Workman from service is in violation of the well-established principles of natural justice and hence, the termination of service of the Workman w.e.f. 11-09-2008 is illegal, unjustified and bad-in-law. He submitted that the dismissal letter dated 11-09-2008 (Exb.W/1) issued to the Workman indicates that the Workman was involved in masterminding theft of the Employers products, thereby committed a misconduct of theft or dishonesty in connection with the Employer's property on repeated basis causing loss to the Employer. He submitted that to prove the misconduct of theft on the part of the Workman, the Employer has examined its Partner Mr. Ajay Pendharkar and the author of the CD, Mr. Noel Athaide, the Proprietor of Xtra Eye. The Employer



also produced on record a CD alongwith oral evidence. He submitted that neither there is any reference of the said CD in the written statement of the Employer nor does the said CD shows that the Workman was involved in theft of the Employer's product in any manner. He submitted that the Employer has however, failed to prove the same either by holding domestic enquiry or even on the floor of this court. He submitted that the Employer is in the habit of harassing the Workman by one way or the other during the course of discussion of on the Charter of Demands under negotiations. He submitted that the said act of the Employer amounts to unfair labour practice. He submitted that the entire family of the Workman suffered due to the illegal termination of service of the Workman. He therefore, submitted that an award be passed declaring the dismissal of the Workman from the service as illegal, unjustified and bad-in-law and the Workman be reinstated in service with full back wages and continuity in service and consequential benefits thereof. In support of his oral contention, he relied upon a judgment of Hon'ble Supreme Court of India, in the case of **D. K. Yadav v/s. J.M.A. Industries Ltd., reported in (1993) 3 SCC 259.**

13. On the contrary, Ld. Adv. Shri G. K. Sardessai, representing the Employer, during the course of his oral arguments submitted that admittedly the Workman was in the employment of the Employer since 01-12-1998 till the date of termination of his service w.e.f. 11-9-2008. He submitted that the Workman was dismissed from service on account of misconduct for theft or dishonesty in connection with the Employer's property on repeated basis causing financial loss to the Employer. He submitted that the Workman was masterminding the theft of the Employer's product, which can be seen from the compact disc (CD) produced by the Employer on record. The Employer has also examined Shri Ajay Pendharkar, its Partner and the author of the CD, Shri Noel Athaide, the Proprietor of Xtra Eye. He submitted that the Workman was dismissed from the service on account of loss of confidence which was entrusted in him and relied upon a judgment of the Hon'ble High Court of Kerala in the case of **Cochin Shipyard Ltd. v/s The Industrial Tribunal and Ors., reported in CDJ 2006 KER Hc. 364.** He submitted that in any event, neither the Workman pleaded that he is gainfully unemployed from the date of dismissal of his service till date nor proved the said fact and as such the Workman is not entitled for any relief much less the relief of reinstatement with full back wages, continuity in service and consequential benefits thereof.

I have carefully considered the oral submissions made by the Ld. Advocates appearing for the respective parties. I have also carefully perused the entire records of the present case.

14. *Issue No. 1:*

The Workman, in para 2 of his claim statement, filed in the present proceedings, pleaded that "Party II is an Employer, where the Party I was employed for last more than 12 years." The Workman, in para 6 of his claim statement, further pleaded that he was initially appointed as temporary worker on 01-09-1998. The Workman further pleaded that he was dismissed from service w.e.f. 11-09-2008. The Workman also produced on record oral evidence in support of his pleadings. The said pleadings as well as oral evidence on record of the Workman clearly shows that the Workman was in the employment of the Employer for 10 years and 11 days only and not 12 years. It is therefore, held that the Workman failed to prove that he was working with the Employer Company for last more than 12 years till the date of his alleged illegal termination w.e.f. 11-09-2008. The Issue No. 1 is therefore, answered in the negative.

15. *Issue No. 4:*

I am deciding the issue No. 4 first, prior to the issue Nos. 2 and 3 as the said issue No. 4 goes to the very root jurisdiction of this Hon'ble Court.

The Employer, as and by way of preliminary objections, pleaded that the present reference filed by the Workman is bad-in-law and not maintainable, that the present dispute raised by the Workman is not an 'industrial dispute' as defined under the I. D. Act, 1947 and that there is non-application of mind by the Appropriate Government, while referring the present dispute. The Employer has however, failed to plead and consequently, ailed to prove the alleged reasons, for which the present reference is bad-in-law and not maintainable and that there is non-application of mind by the Appropriate Government, while referring the present dispute. Hence, I do not find any merits in the said submissions of the Employer.

16. The evidence on record indicates that the Employer has not disputed the status of the Party I as 'Workman' within the meaning of Section 2 (s) of the I. D. Act, 1947 nor disputed that it is not an 'industry' within the meaning of Section 2 (j) of the I.D. Act, 1947. Therefore, the present dispute raised by the Workman pertaining to his non-employment against the Employer is an 'industrial dispute' within the meaning of Section 2 (k) of the I. D. Act, 1947. I therefore, do not find



any merits in the submissions of the Ld. Adv. Shri G. K. Sardessai, appearing for the Employer. Hence, it is held that the Employer failed to prove that the present order of reference issued by the Government of Goa is bad-in-law for any reasons. The issue No. 4 is therefore answered in the negative.

17. Issue Nos. 2, 3 and 5:

I am deciding the issue Nos. 2, 3 and 5 simultaneously as all the said issues are co-related to each other.

18. Undisputedly, the Workman was dismissed from service by letter of the Employer dated 11-09-2008 (Exb.W/1). The said letter of dismissal is worded as under:

*"Dear Mr. Parsekar,*

*It is alleged against you that since quite long time you have been involved in masterminding theft of company's products viz. Turmeric and Vajradanti powder through some employees and after collecting all the robbed material selling them through some sources in the market. For this purpose, you have been in the habit of coming at work place in the morning well before normal time mainly to guide and organize theft on day to day basis.*

*You were found red handed on 26-07-2008 at 7.57 a.m. guiding and shielding Mr. Nilkant Saperkar employee while he was carrying the actual operation of picking the inner box containing 20 Turmeric tubes of 50 gms. each from Turmeric line II.*

*Again on 04-08-2008 at 7.47 a. m. Mr. Nilkant Saperkar after committing theft of inner box containing 20 Turmeric tubes of 30 gms. each from packing table of Turmeric line II. He threw the same on the mezzanine floor and you manage to take and pass on outside the factory premises.*

*The above acts committed by you are nothing but theft or dishonesty in connection with employer's property on repeated basis causing financial loses to the company. Your proven offence on repeated basis is very serious and grave and there are no extenuating circumstances in your case and it warrants an extreme punishment of dismissal without notice from the services of the company as no other punishment will meet the ends of justice.*

*Accordingly, it has been decided to dismiss you without notice from the services of the company. Your dismissal shall come into effect with immediate effect.*

*Your legal dues, if any will be settled in due course of time."*

19. Perusal of the aforesaid letter of dismissal from service issued to the Workman indicates that the Workman has been charged for the misconduct of theft or dishonesty in connection with the Employer's property on repeated basis causing financial losses to the Employer Company. The evidence on records indicates that the Workman was dismissed from service without issuing him any show cause notice or charge-sheet or without even conducting any domestic enquiry pertaining to the alleged misconduct of theft as and by way of disciplinary action. Neither the Employer sought permission to prove the said misconduct of involvement in theft or masterminding and guiding of theft, against the Workman nor proved the said alleged misconduct of theft on the floor of this court.

20. Even otherwise, to prove its case, the Employer has examined Shri Ajay Pendharkar, its Partner and Shri Noel Athaide, the Proprietor of Xtra Eye and produced on record a compact disc (CD) (Exb. E/1-cross) through the cross-examination of the Workman. It is pertinent to note that the Employer has failed to make any reference of the said CD (Exb. E/1-cross) in its written statement filed in the present proceedings nor made any specific pleadings as spelt out in the letter of dismissal issued to the Workman.

21. To prove the charge of theft, one has to prove that the person concerned was taking away the movable property belonging to him without his consent. The first witness of the Employer and its Partner, Shri Ajay Pendharkar, in his cross-examination admitted that there is no CD footage to show that the Workman is seen lifting any of the goods of the Employer Company and thereby commits theft of goods belonging to the Employer Company. He admitted that in the CD footage produced on record, there appears workers namely Shri Paresh Fadte, Shri Rohan Durbhatkar, Shri Santosh Narvekar, Shri Sunil Naik, Shri Santosh Mashelkar and Shri Chandrakant Kerkar alongwith the Workman under reference and other five workers. However, no action has been taken against the said workers. He admitted that the said workers namely Shri Sunil Naik, Shri Santosh Mashelkar and Shri Chandrakant Kerkar are still in the employment of the Employer. He admitted that the time schedule for the workers of the Employer starts at 8.00 a.m. and ends at 4.30 p.m, with the lunch break of half hour from 12.00 noon to 12.30 p.m. and tea break twice at 9.00 a.m. to 9.10 a.m. and 2.30 p.m. to 2.40 p.m. The evidence on record indicates that as per the norms set by the Employer, the

production starts from 8.00 a.m. sharp normally. The evidence on records indicates that the Employer expects that the concerned workman should be on his place at least five minutes before the actual production starts i.e. at 8.00 a.m. in the morning. The oral evidence on record indicates that from 7.30 a.m. their supervisor come to switch on the heater and from that moment the workmen are allowed to enter the factory premises. The oral evidence on record indicates that in the event, any of the workman reports late for his duty, normally the Employer do not allow such workman to join the duty. The evidence on record indicates that the Employer establishment has only one entry and exit gate for its workmen. The oral evidence on record indicates that the Employer also has security personnel at its entry gate. The evidence on record indicates that the factory premises of the Employer is compounded by masonry stone compound wall.

22. The aforesaid oral evidence on record clearly establish that the workers of the Employer are allowed to enter the factory premises after 7.30 a.m. and that the concerned workman shall be ready for production 5 minutes before the start of the actual production at 8.00 a.m. in the morning. The presence of the Workman in the Employer factory before the actual start of the production work in the aforesaid circumstances cannot be said to be with malafide intention to commit the act of theft and thereby causing loss to the Employer. Thus, the Employer, failed to prove the allegations leveled in the letter of dismissal of the Workman issued to him that he was master-mind in committing and guiding the theft of the Employer's product or that he was involved in committing theft of the Employer's product. In the circumstances, the dismissal of the Workman from service w.e.f. 11-09-2008 is clearly in violation of the principles of natural justice.

23. In the case of **Cochin Shipyard Ltd. (supra)**, before the Hon'ble High Court of Kerela, the Respondent-workman, who was working with the Appellant as Machinist was dismissed from service on a proved misconduct of theft in a disciplinary enquiry. In a reference before the Industrial Tribunal, the domestic enquiry conducted against the workman was held to be in accordance with the principles of natural justice. The Industrial Tribunal, however, found that the punishment was excessive. The award of the Industrial Tribunal was challenged by the union as well as the management. The Hon'ble High Court affirmed the award of the Industrial Tribunal. A writ appeal

filed by the management is allowed and the writ appeal filed by the union was dismissed. The Hon'ble High Court has held that *"the Tribunal interfered with the punishment only because the value of the stolen articles were not minute and the management did not proceed with the criminal case. It is settled law that non-lodging of a criminal complaint is not a ground for interfering with the punishment imposed against the petitioner establishment. It was found that the enquiry was conducted in accordance with the principles of natural justice and misconducts were proved in the enquiry. Nature and scope of criminal case are very different from those of a departmental disciplinary proceedings. In a criminal case charge has to be proved by proof beyond the reasonable doubt while in departmental proceeding the standard of proof of proving the charge is mere preponderance of probabilities. Merely because the management did not pursue the criminal proceedings no interference can be done on the punishment, if the punishment is proportionate of the misconduct charged."* In this connection, we refer to the decision of the Supreme Court in **Nelson Mortis v/s. Union of India (1992) 4 SCC 711**, **Senior Superintendent of Post Offices, Prathanamthitta and Ors. v/s. A. Gopalan (1997) 11SCC 239**, **State of Rajasthan v/s. B. K. Meena and Ors. (1996 6 SCC 417)**.

24. The principle laid down by the Hon'ble High Court is not applicable to the case in hand as the facts of the said case before the Hon'ble High Court of Kerela is totally different than the case in hand. In the instance case, the Workman was dismissed from service without holding any domestic enquiry and/or without being heard in the matter. The Employer also failed to prove the alleged act of misconduct of theft of its goods by the Workman on the floor of this court by seeking proper permission. Hence, it is held that the dismissal of the Workman from service is illegal, unjustified and bad-in-law. The issue No. 2 is therefore answered in the affirmative and issue No. 5 is answered in the negative.

25. The term 'unfair labour practice' has been defined in the fifth schedule of the I. D. Act, 1947 and it includes "5. To discharge the workman (a) by way of victimization, (b) not in good faith, but in the colourable exercise of the employer's right, (c) by falsely implicating a workman in a criminal case on false evidence or on concocted evidence, (d) for patently false reasons, (e) on untrue or trumped up allegation of absence without leave, (f) in utter disregard of the principles of natural justice in the conduct of domestic enquiry or with undue haste, (g) for misconduct of a minor or

technical character, without having any regard to the nature of the particular misconduct or the past record or service of the workman, thereby leading to a disproportionate punishment."

26. The evidence on record indicates that the workman was issued a dismissal letter dated 11-09-2008 (Exb. W/1) alleging that he was involved in masterminding theft of the Employer's product through some employees and after collecting all the robbed material selling them through some sources in the market. It is further alleged that he was found red handed on 26-07-2008 at 7.57 a.m. guiding and shielding Mr. Nilkant Saperkar, employee while he was carrying the actual operation of picking the inner box containing 20 turmeric tubes of 50 gms. each from Turmeric line II. It is further alleged that on 04-08-2008 at 7.47 a.m. he managed to take and pass on outside the factory premises the inner box containing 20 turmeric tubes of 30 gms. each which was taken away and thrown on the mazanine floor by Mr. Nilkant Saperkar. Thus, he was charged for involvement of theft or dishonesty in connection with the Employer's property.

27. While discussing the issue No. 2 hereinabove, I have come to the conclusion and held that the dismissal from service of the Workman is without due process of law. Neither the Employer seek permission to prove the charge of misconduct of theft as alleged in the letter of dismissal issued to him nor proved the said misconduct of theft or dishonesty in connection with the Employer's property causing loss to the Employer. In the circumstances, it is held that the Workman proved that he was dismissed from service in utter disregard of the principles of natural justice without conducting any domestic enquiry in undue haste. The said action/omission on that part of the Employer amounts to unfair labour practice as defined in Fifth Schedule. The issue No. 3 is therefore answered in the affirmative.

28. *Issue No. 6:*

While answering the issue No. 2 hereinabove, I have discussed and already come to the conclusion that the Workman was dismissed from service without due process of law. Similarly, while answering the issue No. 3 hereinabove, I have discussed and came to the conclusion that the Workman proved that his dismissal from service w.e.f. 11-09-2008 by the Employer amounts to an

act of unfair labour practice. The evidence on record indicates that the Workman was in the employment of the Employer continuously from the year 1998 till the date of his dismissal from service w.e.f. 11-09-2008. The evidence on record indicates that the past record of the Workman is unblemished. The Workman is therefore entitled for reinstatement with continuity in service and consequential benefits thereof. As regards the claim of the Workman for back wages, neither the Workman pleaded that during the interim period, he is gainfully unemployed or earning something from any sources nor produced any evidence to establish that he gainfully unemployed during the interim period. The Workman also failed to plead and also prove that he has made any efforts to secure any alternative employment. In the circumstances, the Workman is not entitled to any back wages.

In view of above discussions, I proceed to pass the following Order.

ORDER

1. It is held that the action of the management M/s. Vicco Laboratories Limited, Corlim, in terminating the services of it's workman, Shri Naresh Parsekar, with effect from 11-09-2008, is illegal and unjustified.
2. The Employer is hereby directed to re-instate the Workman, Shri Naresh Parsekar, with continuity in services and consequential benefits thereof.
3. No order as to costs.

Inform the Government accordingly.

Sd/-  
(Suresh N. Narulkar)  
Presiding Officer  
Labour Court-II

◆◆◆  
Department of Law & Judiciary

Law (Establishment) Division

—  
Order

No. 1/7/2014-LD(Estt.)/1344

Government of Goa is pleased to appoint Adv. Amira Razak as Government Advocate and

Adv. Deep Digamber Shirodkar as Additional Government Advocate attached to the office of the Ld. Advocate General, Altinho, Panaji to appear and defend the interest of the State Government in the matters before the Hon'ble High Court of Bombay at Goa with immediate effect and until further orders.

They shall be paid fees as per the existing terms and conditions laid down by the Government, applicable to Government Advocates and Additional Government Advocates, amended from time to time, on submission of bills (in duplicate) alongwith the attendance certificate, issued by the

Registrar of the High Court of Bombay, Panaji-Goa. They should comply with the instructions contained in the Government Circular No. 4-43-99/LD dated 04-05-2000. They will appear in those matters, which would be allotted to them by the Ld. Advocate General and perform all duties and functions as may be assigned, by the Ld. Advocate General or the State Government.

By order and in the name of the Governor of Goa.

*Manuel P. Barreto*, Under Secretary, Law (Estt.).

Porvorim, 25th July, 2016.

### Order

No. 2/65/2016-LD(Estt)/1378

The Government of Goa is pleased to order the transfer and posting of the following Civil Registrar-cum-Sub-Registrars, Group 'B', Gazetted Officers of Registration Department, Panaji with immediate effect and in public interest:-

Sr. No.	Name of Civil Registrar-cum-Sub-Registrar	Present place of posting	Place of Transfer to	Remarks
1.	Shri Mahesh R. Prabhu Parrikar	Civil Registrar-cum-Sub-Registrar, Tiswadi	Civil Registrar-cum-Sub-Registrar, Bardez	Vice Shri Arjun S. Shetye transferred.
2.	Shri Arjun S. Shetye	Civil Registrar-cum-Sub-Registrar, Bardez	Civil Registrar-cum-Sub-Registrar, Tiswadi	Vice Shri Mahesh R. Prabhu Parrikar transferred.
3.	Smt. Sonia S. Halarnkar	Civil Registrar-cum-Sub-Registrar, Bicholim	Civil Registrar-cum-Sub-Registrar, Pernem	Vacant Post.
4.	Smt. Sunanda T. Gauns	Newly Promoted	Civil Registrar-cum-Sub-Registrar, Bicholim	Vice Smt. Sonia S. Halarnkar transferred.
5.	Smt. Urmia U. Tari	Jt. Civil Registrar-cum-Sub-Registrar, Tiswadi	Jt. Civil Registrar-cum-Sub-Registrar, O/o Dist. Reg. (N), Panaji	Vice Shri Gouresh G. Bugde transferred.
6.	Shri Gouresh G. Bugde	Jt. Civil Registrar-cum-Sub-Registrar, O/o Dist. Reg. (N), Panaji	Jt. Civil Registrar-cum-Sub-Registrar, Tiswadi	Vice Smt. Urmia U. Tari transferred.
7.	Smt. Freeda B. J. Gomes	Newly promoted	Shall work at CR/SR Ponda on work arrangement	Shall draw salary against vacant post at Salcete.

The above Officers shall complete the process of handing over/taking over of charge with immediate effect and submit compliance.

By order and in the name of the Governor of Goa.

*Manuel Barreto*, Under Secretary (Estt.).

Porvorim, 27th July, 2016.



**Certificate of Practice**

No. 8-7-2014-LD(Estt)(78)/1373

In partial modification of Certificate of Practice dated 28-02-2014 issued under the provisions of Notaries Act, 1952 (Central Act 53 of 1952) and the Notaries Rules, 1956 made thereunder, Government of Goa is pleased to extend the area of practice as a Notary of Smt. Reshma R. Prabhu, to the State of Goa, under Rule 8A of the Notaries Rules, 1956, with immediate effect.

By order and in the name of the Governor of Goa.

*Manuel Barreto*, Under Secretary (Estt.).  
Porvorim, 26th July, 2016.

High Court of Bombay at Goa, Panaji

**Order**

No. HCB/GOA/GP-22/2016/426

Read: Date of retirement to be notified (See Rule 74 of Central Civil Services (Pension) Rules, 1972.

Shri Pralhad P. Kenavdekar, Assistant Registrar, High Court of Bombay at Goa, Panaji, shall stand retired from service on the afternoon of 31st July, 2016 on superannuation.

*S. C. Chandak*, Registrar (ADM.).

Panaji, 30th July, 2016.

**Department of Personnel****Order**

No. 5/7/2003-PER/2258

Shri Damodar Morajkar, Additional Collector Sub-District Ponda shall draw his salary against the post of Director of Official Language w.e.f. 10-06-2016 until further orders.

By order and in the name of the Governor of Goa.

*Yetindra M. Maralkar*, Additional Secretary (Personnel).

Porvorim, 27th July, 2016.

**Department of Planning**

Directorate of Planning, Statistics &amp; Evaluation

**Order**

No. DPSE/I/ADMN/Ad-hoc prom/2016/1841

The Government is pleased to promote the following Statistical Assistant of Common Statistical Cadre to the post of Research Assistant, Group 'B', Gazetted in the pay scale of PB-II Rs. 9,300-34,800+4,200 (G.P.) on ad hoc basis with immediate effect and post them in the departments shown against their names:

Sr. No.	Name of the officials with present designation	Present place of posting	Against the vacant post of
1	2	3	4
1.	Smt. Milan R. N. Dessai, Statistical Assistant	DPSE, Panaji	Against the vacant post of Smt. Naina Raikar, Research Assistant, transferred.
2.	Shri Ulhas S. Phaldessai, Statistical Assistant	District Rural Development Agency (South), Margao on deputation	Against the vacant place of Shri Jose Lobo, Research Assistant, retired on superannuation.

A copy of the joining report may be sent to this Directorate for records.

By order and in the name of the Governor of Goa.

*Vikas S. N. Gaunekar*, Director & ex officio Joint Secretary (Planning).

Porvorim, 19th July, 2016.



**Order**

No. 4-2-16/PLG/DPSE (Part file)/III/1920

On recommendation of the Goa Public Service Commission vide their letter No. COM/II/11/38(1)/2009/164 dated 05-06-2016, the Government is pleased to promote Shri Digambar V. Kalapurkar, Research Assistant of Common Statistical Cadre to the post of Statistical Officer, Group 'B', Gazetted, in the pay scale of PB-II Rs. 9,300-34,800+4,600 (G.P.) on regular basis with immediate effect and is posted at the Directorate of Education, Porvorim against the vacant post of Shri N. D. Zuwarkar, Statistical Officer, retired.

The above officer shall be on probation for a period of two years from the date of joining.

A copy of the joining report may be sent to this Directorate for records.

By order and in the name of the Governor of Goa.

*Vikas S. N. Gaunekar*, Director & ex officio Joint Secretary (Planning).

Porvorim, 25th July, 2016.

**Notification**

No. DPSE/IV/DBT/2016/1873

Government is pleased to constitute a Direct Benefit Transfer (DBT) Cell for proper implementation/monitoring of Direct Benefit Transfer framework across the schemes in the State which will be the real interface between the Government and the beneficiaries.

The DBT Cell shall comprise of the following members:

No.	Details of the member	Designation
1	2	3
1.	The Secretary (Finance/Planning)	State Co-ordinator.
2.	The Director, Directorate of Planning, Statistics & Evaluation	Member Secretary.
3.	The Director, Directorate of Agriculture	Member.
4.	The Director, Directorate of Animal Husbandry & Veterinary Services	Member.
5.	The Director, Directorate of Civil Supplies	Member.
6.	The Director, Directorate of Education	Member.
7.	The Director, Directorate of Higher Education	Member.

1	2	3
8.	The Director, Directorate of Technical Education	Member.
9.	The Chief Conservator of Forest, Forest Department	Member.
10.	The Director, Directorate of Fisheries	Member.
11.	The Director, Directorate of Craftsmen Training	Member.
12.	The Director, Directorate of Health Services	Member.
13.	The Director, Directorate of Industries	Member.
14.	The Director, Directorate of Panchayats	Member.
15.	The Director, Directorate of Mines & Geology	Member.
16.	The Director, Directorate of Art & Culture	Member.
17.	The Project Director, District Rural Development Agency, North	Member.
18.	The Director, Directorate of Social Welfare	Member.
19.	The Director, Transport Department	Member.
20.	The Director, Directorate of Tribal Welfare	Member.
21.	The Director, Directorate of Women & Child Development	Member.
22.	The Director, Directorate of Accounts	Member.

This issues with the approval of the Government vide U. O. No. 2821 dated 18-07-2016.

By order and in the name of the Governor of Goa.

*Vikas S. N. Gaunekar*, Director & ex officio Joint Secretary (Planning).

Porvorim, 20th July, 2016.



## Department of Science, Technology & Environment

### Office Order

No. 8-297-2016/STE-DIR/455

The Department of Science, Technology and Environment has notified a scheme to provide financial assistance to rural Government and Government aided High Schools to assist them in upgrading their available science and related infrastructure/resources, so as to enable the

institutions to avail and realize the benefit of the projects by Goa Information Technology Professionals (GITP) for promotion of IT education in rural institutions.

The said scheme has been notified in Official Gazette Notification No. 8-297-2016/STE-DIR/27 dated 15th April, 2016. As provided in the scheme, the selection of the schools has to be carried out by a committee constituted for scrutinizing and screening the application and recommendation in grant-in-aid and providing financial assistance to schools as envisaged in schools.

A committee has been constituted to scrutinize applications received/proposals under the above mentioned schemes comprising of the following members:-

Sr. No.	Name/Designation of the Member	
1.	Director/Jt. Sec (S&T)	Chairman.
2.	Dy. Director of Education (Academics)	Member.
3.	Vincent Toscano	Vice President and Co-leader Project GITP
4.	Sangeeta Naik	Ex-Member and Co-leader Project GITP
5.	Jose Pereira	Computer teacher at Marina English School, Verna.
6.	Alfa Clara Mendes	Science Teacher at St. Lawrence High School, Agassaim.

The Committee shall meet and examine the proposal received under the scheme and make

recommendation for grant of financial assistance under the scheme.

By order and in the name of the Governor of Goa.

*Levinson J. Martins*, Director & ex officio Joint Secretary (S&T).

Porvorim, 27th July, 2016.



## Department of Urban Development

Municipal Administration

### Order

No. 1/03/DMA/Admn/1239

Read: Order No. 1/03/DMA/Admn/RTI/255 dated 30-4-2015.

In partial modification to the above referred order the Government has approved the appointment of the following official of the Ponda Municipal Council in the State under the Right to Information Act, 2005 to act as Officials under sub-section (2) of Section 5 of the Right to Information Act, 2005.

Sr. No.	Name of the Officials	Designation	Office Telephone Number
1.	Superintendent	Assistant Information Officer	2312512/ /2315006

The Assistant Public Information Officer is responsible for maintaining and updating all required information and also receiving and disposing off applications under Right to Information Act, 2005.

*Elves P. Gomes*, Director (Urban Development).

Panaji, 1st August, 2016.

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Published and Printed by the Director, Printing & Stationery,  
Government Printing Press,  
Mahatma Gandhi Road, Panaji-Goa 403 001.

PRICE—Rs. 20.00

PRINTED AT THE GOVERNMENT PRINTING PRESS, PANAJI-GOA-124/350-8/2016.